IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,) CASE NO. 8:08CR358
Plaintiff,	
vs.) AMENDED) TENTATIVE FINDINGS
KENNETH S. JONES,) TENTATIVE FINDINGS
Defendant.)

The Court has received the Presentence Investigation Report ("PSR") in this case. The parties have not objected to the PSR. See Order on Sentencing Schedule, ¶ 6. The government adopted the PSR. (Filing No. 28.) The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

In charging Count IV, the government charged the Defendant under 18 U.S.C. §§ 922(g)(1) and 924(e). Section 924(e) requires a sentence of at least 15 years. Therefore, up to 5 years supervised release may be imposed on Count IV. 18 U.S.C. § 3583(b)(1). However, the plea agreement advised the Defendant that he faced up to 10 years imprisonment and "3 years" supervised release on Count IV. The discrepancy between the plea agreement and the Indictment went unnoticed by the parties and the Court at the change of plea hearing. This matter will be discussed at sentencing.

IT IS ORDERED:

1. The issues of the term of imprisonment and supervised release faced with respect to Count IV will be discussed at sentencing;

¹The Court's notes reflect that at the plea hearing the Defendant was advised that he faced "up to 3 years" supervised release.

2. Otherwise, the parties are notified that my tentative findings are that the PSR

is correct in all respects;

3.

If any party wishes to challenge these tentative findings, the party shall

immediately file in the court file and serve upon opposing counsel and the Court a motion

challenging these tentative findings, supported by (a) such evidentiary materials as are

required (giving due regard to the requirements of the local rules of practice respecting the

submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary

hearing is requested, a statement describing why an evidentiary hearing is necessary and

an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order,

my tentative findings may become final; and

5. Unless otherwise ordered, any motion challenging these tentative findings

shall be resolved at sentencing.

DATED this 20th day of February, 2009.

BY THE COURT:

s/Laurie Smith Camp United States District Judge

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